

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **CONFERENCE COMMITTEE ON HOUSE AMENDMENTS TO SENATE BILL 349**

**Call to Order:** By **CHAIRMAN SHERM ANDERSON**, on April 16, 2003 at 10:15 A.M., in Room 350 Capitol, and on April 17, 2003 at 9:15 A.M., in Room 335 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Sherm Anderson, Chairman (R)  
Rep. Donald Steinbeisser, Vice Chairman (R)  
Sen. Duane Grimes (R)  
Rep. Allen Rome (R)  
Sen. Vicki Cocchiarella (D)  
Rep. Jim Keane (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Marian Collins, Secretary  
Eddye McClure, Legislative Services Division

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed. All tape counter notations refer to the material immediately following.

**Committee Business Summary:**

Hearing & Date Posted: SB 349, 4/15/2003  
Executive Action: AMEND FURTHER

***{Tape: 1; Side: A; Approx. Time Counter: 2 - 11.4}***

**Jill Gerdrum, State Auditor's Office**, first addressed Amendment 1 on Exhibit 1 compiled and presented by Jacqueline Lenmark. Page 2, Section 4 of Senate Bill 349 pertains to the definition of "adverse action." She stated that the wording had been agreed upon by members of the insurance industry and herself.

**Jacqueline Lenmark, American Insurance Association (AIA)**, presented copies of those amendments to the committee.  
**EXHIBIT**(cch82sb0349a01)

**Motion/Vote: SENATOR GRIMES moved ACCEPTANCE OF AMENDMENT #1 (Exhibit 1). Motion carried 6-0 by voice vote.**

***{Tape: 1; Side: A; Approx. Time Counter: 11.8 - 19.2}***

**Ms. Lenmark** stated that some amendments in Exhibit 1 were agreed to and some were not agreed to by all participating parties.

**Ms. Gerdrum** stated that Amendment 2 addresses "credit score," and Ms. Lenmark's proposed amendment was agreed to between the Auditor's Office and the insurance industry.

**SEN. COCCHIARELLA** stated that the terms "insurance score" and "credit score" need to be clearly explained to the general public. **Ms. Gerdrum** stated that the Auditor's Office is also concerned that individuals don't always understand how or why a scoring system is used to determine their rates.

**Motion/Vote: SEN. GRIMES moved ACCEPTANCE OF AMENDMENT #2 (Exhibit 1). Motion carried 6-0 by voice vote.**

***{Tape: 1; Side: A; Approx. Time Counter: 19.3 - 30.6}***

***{Tape: 1; Side: B; Approx. Time Counter: 2.1 - 8.3}***

**Ms. Gerdrum** noted that Amendment 3 pertains to "substantially weighing" and is one of the major areas of disagreement. "Substantially weighing" was inserted to replace the "solely" so that it would allow the insurers to continue to use credit scoring, but it would require a balance so that the credit scoring doesn't outweigh all the other underwriting factors combined.

**Ms. Lenmark** stated that one of her concerns is that "substantially weighing" has not been clearly defined and would therefore be difficult to enforce. She advocated maintaining the original model language in the bill.

**REP. KEANE** and **SEN. COCCHIARELLA** expressed concerns about the wording of the bill.

**Roger McGlenn, Independent Insurance Agents Association of Montana**, stated that they don't support either "solely" or "substantially weighing" because of the difficulty of defining both terms.

After further discussion, **Ms. Gerdrum** suggested considering some other amendment that makes "substantially weighing" more clear, or further limits "solely."

**Motion/Vote:** **SEN. GRIMES** moved **ACCEPTANCE OF AMENDMENTS #3-9 (Exhibit 1)**. Motion carried 4-2 with **SEN. COCCHIARELLA** and **REP. KEANE** voting no by voice vote.

**SEN. COCCHIARELLA** expressed further concerns that insurance companies should inform their clients how their rates were determined.

*{Tape: 1; Side: B; Approx. Time Counter: 12 - 31}*

*{Tape: 2; Side: A; Approx. Time Counter: 0.2 - 16.8}*

**Ms. Lenmark** stated that the next set of amendments are encompassed in #10 (Exhibit 1), and gave a brief overview of the proposed changes.

**Ms. Gerdrum** asked the Conference Committee to keep subsections (b) and (c) stricken so that absence of credit cannot be considered as part of the model. "Neutral credit" isn't clearly defined and should remain stricken; it can be interpreted differently by different companies and in many cases it can result in a higher rate than otherwise would be paid if credit weren't a factor.

**Ms. Lenmark** stated "neutral credit" means that the credit score is not going to be viewed negatively or positively. It refers to individuals who have no credit history. Historically, the absence of credit history is predictive of risk. This subsection is giving the consumer a break in saying that the absence of credit history can only be considered in certain circumstances and it can only be treated in certain ways while it is being considered.

Extensive discussion followed.

**Mr. McGlenn** stated that the independent agents of Montana, as well as the independent agents on a national level, feel that the lack of credit history should not be allowed to be used as a negative factor in underwriting of insurance.

**Motion:** REP. ROME moved ACCEPTANCE OF SECTION 5, SUBSECTION 5 (a), (b), AND (c) WITH "NEUTRAL" REPLACED BY "NEITHER POSITIVE NOR NEGATIVE" (Exhibit 1).

**Discussion:** Greg Van Horssen, State Farm Insurance Company, advocated for REP. ROME's motion. Joe Metropoulos, FIG/NAII, also expressed support for the motion. He stated that inclusion of (a), (b) and (c) would be good for the consumer as well as the competitive process with insurers.

**Vote:** Motion carried 4-2 with SEN. COCCHIARELLA and REP. KEANE voting no by voice vote.

*{Tape: 2; Side: A; Approx. Time Counter: 17 - 30.2}*

*{Tape: 2; Side: B; Approx. Time Counter: 2.5 - 30.4}*

*{Tape: 3; Side: A; Approx. Time Counter: 0.1 - 12.6}*

Ms. Gerdrum explained concerns associated with #11 (Exhibit 1), and feels that the number or type of credit inquiries should not be used to rate or deny insurance for an individual.

Ms. Lenmark stated that AIA believes the House amendments should be rejected for the reason of uniformity. They also think that the House amendments take away some protections for the consumer that are contained in the model language.

SEN. COCCHIARELLA suggested removing all reference to "credit inquiries" for determining rates. She made a motion reflecting this, which she eventually withdrew.

Mr. McGlenn stated that the independent insurance agents oppose the use of the number of credit hits (inquiries) which might reduce that individual's credit score.

Discussion continued concerning the wording of the amendments.

The Committee adjourned at 12:15 P.M. and agreed to reconvene the following day at a time and place convenient for everyone.

*{Tape: 3; Side: A; Approx. Time Counter: 13.2 - 15.1}*

The Committee reconvened at 9:15 A.M. on April 17, 2003 in Room 335.

CHAIRMAN ANDERSON referred the Committee to Page 4, Line 7 of SB 349 and suggested accepting the amendments that the Auditor's Office presented in the House. He also suggested retaining the amendments on Line 15. He then stated that it will be necessary to reject the amendment on Line 20 due to the changes made to Section 5, Subsection 5 (a) the previous day.

**EXHIBIT**(cch82sb0349a02)

**Motion/Vote:** REP. ROME moved ACCEPTANCE OF THE AFOREMENTIONED AMENDMENTS. Motion carried 6-0 by voice vote.

*{Tape: 3; Side: A; Approx. Time Counter: 15.2 - 18.3}*

**Motion/Vote:** SEN. COCCHIARELLA moved ACCEPTANCE OF AMENDMENTS #15-18 (Exhibit 1). Motion carried 6-0 by voice vote.

*{Tape: 3; Side: A; Approx. Time Counter: 18.5 - 30.2}*

*{Tape: 3; Side: B; Approx. Time Counter: 2.2 - 12.8}*

**Ms. Landmark** informed the Committee that agreement had not been reached on Lines 15-19 (Amendment 19 in Exhibit 1).

**Mr. VanHorssen** presented copies of proposed amendments to Subsection 8. An extensive discussion followed.

**EXHIBIT**(cch82sb0349a03)

**EXHIBIT**(cch82sb0349a04)

**EXHIBIT**(cch82sb0349a05)

**Motion/Vote:** SEN. COCCHIARELLA moved ACCEPTANCE OF THE CONCEPTUAL AMENDMENT PROPOSED IN EXHIBIT 4. Motion carried 6-0 by voice vote.

*{Tape: 3; Side: B; Approx. Time Counter: 14.4 - 18.2}*

**Ms. Gerdrum** arrived and **CHAIRMAN ANDERSON** briefed her on the amendments discussed and voted on thus far during this morning's meeting.

*{Tape: 3; Side: B; Approx. Time Counter: 18.4 - 31}*

*{Tape: 4; Side: A; Approx. Time Counter: 0.1 - 21.8}*

**CHAIRMAN ANDERSON** directed the Committee to Page 4, Line 30, and referred to Amendment 11 in Exhibit 1.

**Ms. Landmark** distributed new amendments requested by various individuals in the insurance industry.

**EXHIBIT**(cch82sb0349a06)

**EXHIBIT**(cch82sb0349a07)

**SEN. GRIMES** gave an overview of the new amendments proposed in Exhibit 6 and 7.

**Motion:** SEN. GRIMES moved ACCEPTANCE OF AMENDMENTS CONTAINED IN EXHIBIT 7.

**Discussion:** SEN. COCCHIARELLA stated that she preferred the wording in Exhibit 6. Extensive discussion ensued, and SEN. GRIMES withdrew his motion.

**Substitute Motion:** SEN. GRIMES moved ACCEPTANCE OF AMENDMENTS CONTAINED IN EXHIBIT 6.

**Ms. Lenmark** presented the Committee with copies of how Choice Point and TransUnion obtain information for insurance, and how that information is used. The Committee and others discussed various aspects of the amendments and how companies use information in determining insurance rates.

**EXHIBIT** (cch82sb0349a08)

**EXHIBIT** (cch82sb0349a09)

**Vote:** Motion carried 5-1 with REP. KEANE voting no by voice vote.

*{Tape: 4; Side: A; Approx. Time Counter: 22 - 25.7}*

CHAIRMAN ANDERSON referred to proposed Amendments 13 and 14.

**Motion/Vote:** REP. ROME moved ACCEPTANCE OF AMENDMENTS 13 AND 14. Motion carried 4-2 with SEN. COCCHIARELLA and REP. KEANE voting no by voice vote.

*{Tape: 4; Side: A; Approx. Time Counter: 25.8 - 31.1}*

*{Tape: 4; Side: B; Approx. Time Counter: 1.6 - 13.7}*

CHAIRMAN ANDERSON referred to proposed Amendments 20 and 21.

**Motion:** SEN. GRIMES moved ACCEPTANCE OF AMENDMENT 20 AS IS, AND AMENDMENT 21 WITH REVISIONS; STRIKE EVERYTHING AFTER 33-16-203 AND INSERT "PURSUANT TO" IN LIEU OF AND STRIKE "REQUIRED IN."

**Discussion:** SEN. COCCHIARELLA asked for clarification of the amendments from SEN. GRIMES. **Ms. Lenmark** gave further rationalization for the amendments.

**Vote:** Motion carried 5-1 with REP. KEANE voting no by voice vote.

*{Tape: 4; Side: B; Approx. Time Counter: 14 - 23}*

CHAIRMAN ANDERSON referred to proposed Amendment 22.

**Motion/Vote:** SEN. GRIMES moved ACCEPTANCE OF AMENDMENT 22. Motion carried 6-0 by voice vote.

CHAIRMAN ANDERSON informed the Committee that on Page 9, all language that was stricken is part of the original bill. It was stricken because the language in the bill now replaces that.

**CHAIRMAN ANDERSON** referred to proposed Amendment 23.

**Motion:** SEN. GRIMES moved ACCEPTANCE OF AMENDMENT 23.

**Discussion:**

**SEN. GRIMES** asked what the reason was for the date change. **SEN. COCCHIARELLA** suggested that January 2004 might be a good target date. **Ms. Lenmark** said they could try to get ready by January 1 if that were the decision of the Committee, however, this will require the development of new forms, filing of new forms, and the approval of new forms. It also requires the filing and potentially refiling of scoring models that might be used by the companies, as well as review of the department. Due to the amount of preparatory work needing to be done, they feel that the July 1, 2004 date gives companies the time to get ready for this and do it in an orderly manner. **SEN. COCCHIARELLA** stated that she hoped insurance companies would not wait another year to start notifying consumers of how their rates are determined.

**Vote:** Motion carried 4-2 with **SEN. COCCHIARELLA** and **REP. KEANE** voting no by voice vote.

**Motion/Vote:** SEN. GRIMES moved SB 349 DO PASS AS AMENDED. Motion carried 5-1 with **REP. KEANE** voting no by voice vote.

**ADJOURNMENT**

Adjournment: 12:15 P.M. on April 16, 2003 and  
9:45 A.M. on April 17, 2003

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SEN. SHERM ANDERSON, Chairman

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MARIAN COLLINS, Secretary

SA/MC

**EXHIBIT** (cch82sb0349aad)